

But not the reverse

אבל איפכא לא –

OVERVIEW

The ברייתא concluded that this leniency (that we let them first celebrate their wedding and then go into mourning) is only if the father of the חתן or the mother of the כלה died (since they provide the wedding needs of the חתן and כלה respectively), but if it was the reverse (the mother of the חתן or the father of the כלה died) this leniency would not apply. אבילות discusses various rules of marrying after תוספות.

והוא הדין אם אבלים מחמת שאר קרובים -

And the same rule of strictness would apply **if they are in mourning for other relatives** (neither their father nor their mother); they would also be required to begin the mourning period and have the wedding afterward.

תוספות asks:

תימה דאמר בפרק ג' דמועד קטן (דף כג,א ושם) מתה אשתו אסור לישא עד שיעברו ג' רגלים -
It is astounding! For the ברייתא states in the third פרק of מסכת מו"ק 'his wife died, he is forbidden to remarry until three holidays pass -

ואם אין לו בנים מותר לישא לאלתר משום פריה ורביה -

However, if he has no children he may remarry immediately in order to fulfill the מצוה of פו"ר. In addition -

הניחה לו בנים קטנים מותר לישא לאלתר משום פרנסתם -

If his deceased wife **left him over with small children he may also remarry immediately because of the children's needs**'. This concludes the ברייתא, which indicates that an אבל may remarry immediately if he has no children (because of פו"ר) -

והכא אמר אבל איפכא לא ומשמע דבאין לו בנים עסקין -

However here the ברייתא states, 'however by the reverse (or by other relatives) he may not' remarry until after the אבילות, and it seems that here we are discussing someone who has no children -

מדקאמר דליכא דטרח להו משמע דבבחור איירי¹ -

Since the ברייתא states, 'for there is no one to work for them'; indicating that he is still a בחור; he was never married before and was not פו"ר, so why cannot he continue on with the wedding because of פו"ר as the other ברייתא stated.

תוספות answers:

¹ One who has grown children, does not need his father to take care of his second wedding; he can do so on his own.

ויש לומר דלאלתר לאו דוקא אלא כלומר מותר לאחר ז'² -

And one can say that when the ברייתא in מו"ק ruled that he marry **immediately** if he has no children or he has small children, **it did not actually mean immediately, but rather it meant that he is permitted** to remarry after the seven days of mourning. There is therefore no contradiction between the ברייתות.

cautions: תוספות

ומיהו לבעול אסור עד לאחר ל'³ כדמוכח בתר הכי -

However (even though he may remarry [after seven days] if he has no children or small children), nevertheless **it is forbidden** for him **to have relations** with his wife, **until after the thirty day** period of mourning, **as is evident later** in that same ברייתא -

במעשה שמתה אשתו של יוסף הכהן ואמר לאחותה בבית הקברות צאי ופרנסי בני אחותיך -
Regarding the story, that the wife of יוסף הכהן died, and יוסף הכהן told his wife's sister in the cemetery, marry me and go and take care of your deceased sister's children (meaning that the surviving sister should marry יוסף הכהן and attend to his children [from her sister]). The ברייתא concludes -

ואף על פי כן לא בא עליה עד זמן מרובה מאי זמן מרובה שלשים יום מכלל דכנסה תוך ל' -
But nevertheless (even though they married within thirty days), **he had no relations with her until a 'long time' passed**. The גמרא asked, 'what is a 'long time'; רב פפא answered, 'thirty days' after his wife's death, **indicating that he married her within thirty days.**

ותוך שבעה ודאי אסור כדמוכח הכא⁵ -

And within the seven days of אבלות it is certainly forbidden to marry **as is evident here -**

responds to an anticipated difficulty: תוספות

ומה שאמר לה בבית הקברות לא היה זה כניסה אלא שידוכין בעלמא -

And this which he said to her in the cemetery, go and attend to the children (which would seemingly indicate that he married her then), **this was not a**

² Compared to the רגלים ג' which one has to wait normally after the wife's death, waiting only seven days is considered לאלתר.

³ An אבל is permitted to have תשמיש המטה after seven days; however, by a בעילת מצוה where there is a יתירה he needs to wait ל' יום (see אליה רבה). See 'Thinking it over' # 1.

⁴ The meaning of וכו' לא בא עליה is that even though he married her, nevertheless לא בא עליה until ל' יום, indicating that the marriage took place תוך ל'. See 'Thinking it over' # 2.

⁵ If it is not אביו של חתן or אמה של כלה, then the wedding may not proceed since they are אבלים. See 'Thinking it over' # 3.

marriage (for that is forbidden until after the **שבעה**), **but rather it was merely an engagement** to get married after **שבעה**.

In summation: an **אבל** for one's wife may not marry until three **רגלים** pass (for other **אבילות** he must wait one month), however if he (was not **פז"ר** or **מקיים פז"ר**) has small children that need to be attended, he may marry after **שבעה**, but may not be **בועל** until after **ל'**.⁶

היתר **qualifies** this **תוספות**:

ונראה לרבינו יצחק דודאי אותו שיש לו בנים קטנים מותר לישא תוך ל' -

And it is the view of the ר"י that certainly one who has small children is permitted to marry within thirty days so someone will attend to the children -

כדמשמע בעובדא דיוסף הכהן -

As it seems by the story of יוסף הכהן who had small children and married within thirty days -

אבל אותו שאין לו בנים כלל אסור לישא עד לאחר שלשים⁷ -

However one who has no children at all, it is forbidden for him to marry until after thirty days (even though he was not **מקיים** yet the **מצוה** of **פז"ר**) -

כיון שאין יכול לבעול תוך שלשים -

Since he cannot be בועל within thirty days, so there is no purpose in the marriage, as opposed to one who has small children who may marry within the thirty days (after **שבעה**), for even though he cannot be **בועל**, but his wife will attend to the children.

תוספות offers proof to this view:

וכן משמע במסכת שמחות (פרק ז') דתניא במה דברים אמורים כשיש לו בנים גדולים -

And so it seems in מסכת שמחות, where the ברייתא teaches, 'when do these laws apply (that one waits three holidays), **if he has older children -**

אבל אין לו בנים או שיש לו בנים קטנים מותר לישא אחרת לאחר⁸ ל' -

However if he has no children (and needs to be **פז"ר**) **or he has small children** (and needs a wife to attend to them), **he may remarry after thirty'** days -

משמע דאסור אפילו לישא תוך שלשים -

It seems that (one who has no children) **is forbidden even to marry within שלשים** (and not only to be **בועל**) as the **ר"י** stated –

⁶ See footnote # 11.

⁷ It will be necessary to say according to this **ר"י** that when the abovementioned **ברייתא** in **מ"ק** states **ואם אין לו בנים** **יש לו** (and not like the **ל' יום** of **לאלתר**), it means that he need not wait three **רגלים** but can marry after **ל' יום**, **מותר לישא לאלתר** (and not like the **ל' יום** of **לאלתר**). **בנים קטנים**, which means **לאחר ז'**.

⁸ Our text of **שמחות** read **ל' יום** **בתוך** (instead of **לאחר ל'**)

ואף על גב דיש לו בנים קטנים מותר לישא תוך שלשים - anticipates a difficulty:

And even though the ר"י ruled that one who has small children may remarry within שלשים (and from the ברייתא in שמחות it seems that both one who has no children and one who has small children may marry only after thirty days) –

מכל מקום נקט אחר שלשים משום אין לו בנים⁹ - responds:

Nevertheless we can answer that the ברייתא mentioned that he marries **after שלשים**, because of the case where אין לו בנים; however if he has בנים קטנים he may remarry within שלשים.

ורבינו תם רצה לומר דבאין לו בנים - offers a dissenting view:

And the ר"ת wanted to say that by one who has no children -
אפילו לבעול שרי תוך שלשים אחר ז' משום פריה ורביה -
He is permitted even to be בועל within שלשים but after שבועה because of פו"ר -
וההיא דשמחות אינה מתיישבת כפירוש¹⁰ -

However the ר"ת of שמחות מס' cannot be explained according to the s'ת"ר view.

In summation: according to the ר"י one who has small children may remarry ל' תוך, but cannot be until after ל'. However, one who has no children can remarry only after ל'. We are more lenient by בנים קטנים than by אין לו בנים. According to the ר"ת the reverse is true; by בנים קטנים he may marry ל' תוך and be after ל' (as the ר"י maintains), but by אין לו בנים he may marry and be ל'. We are more lenient by אין לו בנים than by בנים קטנים.¹¹

ונראה דביש לו בנים קטנים שרי לישא ואפילו אם היא נמי אבילה מפני שמפרנסת בניו¹² - continues to rule on various cases in this matter:

And it is the view of תוספות, that in a case where he has small children he can marry a woman (ל' תוך), and even if she is also an אבילה; he may do this since she attends to his children -

⁹ Regarding בנים קטנים יש לו בנים we can interpret that when the ברייתא states מותר לישא אחרת לאחר ל' (even though that according to the ר"י he may remarry within ל') it is referring to the ביאה, which can be done only לאחר ל'.

¹⁰ How can the ברייתא in שמחות mention בנים קטנים when it rules ל' תוך only, since by אין לו בנים he may (not only marry but) even be בועל תוך ל' (according to the ר"ת)?! See footnote # 8 & 9.

¹¹ It would seem that תוספות (before he mentioned these two views) maintains that by both אין לו בנים or בנים קטנים יש לו בנים (נמוק"י see). See footnote # 6.

¹² See 'Thinking it over' # 4.

ואף על פי שאפשר באחרת כדמוכה בעובדא דיוסף הכהן שהיתה אבילה מאחותה -
And even though it is possible for him to marry another woman who is not an
אבילה, nevertheless it is permitted,¹³ as is evident in the story of יוסף הכהן where
(his new wife) was an אבילה because of her sister's death –

תוספות discounts this proof:

ומיהו אין כל כך ראיה דשמא שאני התם לפי שהיא תרחם על בני אחותה יותר מאחרת –
However, it is not such a valid proof (that he may marry an אבילה), for perhaps
there, it is different, since the sister will be more caring for her nephews than
another woman. However, if the proposed wife is not a relative to the children and is also an
אבילה, it may not be permitted (if he can marry another woman).

תוספות anticipates a difficulty with the premise than if בנים אין לו he may marry even an אבילה within ל':

ואף על גב דתנן בפרק החולץ (יבמות דף מא, א ושם) כל הנשים יתארסו חוץ מאלמנה מפני האיבול -
And even though the פרק החולץ in משנה ר' יוסי, said, all the woman
(whether she was previously an ארוסה or a נשואה) may betroth (immediately after
the divorce) except for the אלמנה, because of the mourning' -

ולא מפליג מידי משמע שאסורה אפילו למי שיש לו בנים קטנים כשהיא אבילה -
And יוסי ר' does not distinguish at all, indicating that while she is an אבילה, she
is forbidden to marry even to someone who has small children, and here תוספות
said that he is permitted to marry an אבילה –

תוספות responds:

התם משום דבלאו הכי אסורה דצריכה להמתין ג' חדשים¹⁴ משום הבחנה¹⁵ -
There by אלמנה it is different, because she is forbidden to have נישואין regardless
of the אבילות, for she is required to wait three months because of הבחנה.

In summation; an אבילה with בנים קטנים may marry an אבילה even if it is ל' תוך for both of them (but he cannot be בועל until after ל').

An additional ruling:

¹³ The reason is he may not find another who is willing to attend to his children (additionally, since he wants her, he will not take another and he will wait until after ל' to the detriment of the בנים קטנים).

¹⁴ Therefore, since she cannot marry him, there is nothing gained by having the אירוסין right away for the sake of the בנים קטנים, for since she is merely an ארוסה she is not together with him and cannot attend to his children, who are by him.

¹⁵ הבחנה means distinction. A widow or divorcee has to wait three months before she may have relations with a new husband in order to distinguish whether a child born is from the original husband or the new husband.

ואומר רבינו תם דאפילו מתו אביו ואמו¹⁶ יכול לכוון אחר ל' -

And the ר"ת ruled that one may marry after ל' even after the death of his parents –

anticipates a difficulty:

והא דאמרינן במועד קטן (דף כב, ב) על כל המתים נכנס לבית המשתה אחר ל' -

And that which the ברייתא rules in מ"ק, מסכת מו"ק, 'for mourning after all deceased relatives the mourner may enter a banquet hall after ל', however if he is mourning -

על אביו ועל אמו אחר י"ב חדשים -

For his father or mother he must wait until after twelve months', this concludes the ברייתא. The question is how can the ר"ת rule that he can marry after ל' –

responds:

הני מילי בשאר שמחות אבל לישא אשה שהיא מצוה יתירה¹⁸ מותר -

This ruling of waiting twelve months from participating in a בית המשתה for one's parents is valid by other types of joy, however to marry a woman which is a 'special' מצוה it is permitted after ל' -

ואפילו יש לו בנים משום שנאמר (קהלת יא) בבקר זרע [את] זרעך ולערב אל תנח ידך¹⁹ -

And even if he has children (so there is no issue of פו"ר), because it says, 'in the morning sow your seed and towards evening do not stay your hand'

והביא ראיה מדתניא²⁰ שתם כל ל' יום לנישואין ולא מפליג בין אביו ואמו לשאר קרובים -

And the ר"ת brought proof that one may marry after thirty days of אבילות even for parents, from the ברייתא which states as a general rule, 'thirty complete days of אבילות must pass before marrying', and the ברייתא does not distinguish between mourning for his parents or for other relatives -

משמע דכולהו לאחר ל' מותר -

Indicating that by all relatives (including parents) one is permitted to marry after ל' of אבילות –

brings an additional proof to this ruling of the ר"ת:

והרב רבינו יוסף הביא ראיה לדבריו דתנן במסכת שמחות (פרק ט') בהדיא -

¹⁶ It is only by מתה אשתו that he is required to wait ג' רגלים (see עד ד"ה כג, א). (תוס' מו"ק כג, א ד"ה עד)

¹⁷ This is in a case where he has already בנים גדולים; however if he has no בנים or he has בנים קטנים he may marry תוך (תוס' מו"ק כג, א ד"ה עד) (as the ר"ת stated earlier in this 'תוס').

¹⁸ The מצוה of פו"ר is referred to (by תוספות [see שאני]) as a מצוה גדולה. See 'Thinking it over' # 5.

¹⁹ It is in פסוק ו. This means that one must engage in פו"ר not only in his younger years (בבוקר) but even in his older years (לערב) and even if he has children already. See יבמות סב, ב.

²⁰ מו"ק כג, א.

And משנה in brought a proof to the ר"ת for we learnt explicitly in a - מסכת שמחות

על כל המתים אסור לילך לבית המשתה עד שישלימו ל' יום -

For all deceased relatives it is forbidden to go to a בית המשתה until the completion of thirty days of bereavement -

ועל אביו ועל אמו אסור כל שנים עשר חדש אלא אם כן היה²¹ של מצוה -

However for one's father and mother it is forbidden to enter a בית המשתה the entire twelve months, unless it was a מצוה of a משתה -

אלמא שרי בכל משתה של מצוה -

It is evident that it is permitted to participate in every משתה of a מצוה, including one's own wedding.

תוספות concludes:

וצריך עיון אי קאי נמי ארישא ושרי אפילו תוך ל' יום:

And contemplation is needed to decide if the statement מצוה של א"כ היה applies even to the רישא (where it says יום ל' שישלימו עד שישלימו ל' יום), and if it does refer back to the רישא, a שמחה של מצוה will be permitted even יום ל' תוך (for [or even for אביו ואמו] שאר קרובים).²²

SUMMARY

An אבל with small children may remarry תוך ל' and be בועל after ל'. An אבל without children may not marry תוך ל' according to the ר"י and may marry and be ל' תוך according to the ר"ת. An אבל with בנים קטנים may marry an ל' תוך (provided she is not within three months of a previous marriage). An אבל for אביו ואמו may marry after ל' (even if he was פו"ר).

THINKING IT OVER

1. תוספות, in the previous בועל ד"ה, attempted to prove that during דברים שצנעה נוהג, from the fact that the בעילת מצוה was permitted only where the מת was in the room, but not after he was buried (when the אבילות begins).²³ However, here²⁴ distinguishes between בעילת מצוה (which is forbidden during ל') and a regular בעילה which is מותר after ז'. How can we therefore prove from מצוה

²¹ In our text it reads היתה לשם שמחים (instead of מצוה של).

²² This view would however be in contradiction with the ר"ת who previously stated that מתו אביו ואמו יכול לכונס (but not before); indicating that it applies both to אביו ואמו as well as to שאר קרובים

²³ See (the text) there (by) footnote # 6.

²⁴ See footnote # 3.

²⁵ בעילה applies to a regular (אסור באבילות which is)

2. (בא עליה לאחר ל' (where he was יוסף הכהן proves from the story of תוספות. בנים [because he has תוך ל' (for someone who is permitted to marry ל' בנים) to be בועל until after ל'.²⁶ However there is seemingly no proof, for there she was also an אבילה (and the reason of בנים קטנים do not apply to her), therefore he could not be בועל until לאחר ל', however if she is not an אבילה, perhaps (if he can marry ל' (תוך ל' he can be בועל תוך ל'?)²⁷

3. בנים קטנים even for one who has תוך ז' writes that it is forbidden to marry תוספות. as it is evident in our גמרא here.²⁸ However our גמרא here is discussing one who has no children, therefore he has to wait until after ז', but how do we know that one who has בנים קטנים needs to wait until after ז' (for the ר"י differentiates between בנים לאחר [where he needs to wait until אין לו בנים] and [תוך ל' where he may marry ל' קטנים]?)³⁰

4. אבילה תוך ל' he may marry an יש לו בנים קטנים by תוספות. What would be the rule according to the ר"ת if פו"ר is לא קיים, is he also permitted to marry an אבילה (תוך ל')?)³²

5. מצוה יתירה since it is a אבילות אביו ואמו even for לאחר ל' permits marrying תוספות.³³ However later ה"ר יוסף states that בכל משתה של מצוה. Why did the ר"ת need to say that it is a מצוה יתירה?³⁴

²⁵ See אליה רבה.

²⁶ See footnote # 4.

²⁷ See מהרש"א.

²⁸ See footnote # 5.

²⁹ See footnote # 7.

³⁰ See רע"א.

³¹ See footnote # 12.

³² See סוכ"ד אות כו.

³³ See footnote # 18.

³⁴ See סוכ"ד אות כו.